



# City of Marietta

205 Lawrence Street  
Post Office Box 609  
Marietta, Georgia 30061

## Meeting Minutes CITY COUNCIL

*R. Steve Tumlin, Mayor*  
*Annette Paige Lewis, Ward 1*  
*Griffin "Grif" L. Chalfant, Jr., Ward 2*  
*Johnny Sinclair, Ward 3*  
*G. A. (Andy) Morris, Ward 4*  
*Rev. Anthony C. Coleman, Ward 5*  
*James W. King, Ward 6*  
*Philip M. Goldstein, Ward 7*

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Wednesday, February 13, 2013

7:00 PM

Council Chamber

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**Presiding:** R. Steve Tumlin, Mayor

**Present:** Annette Lewis, Grif Chalfant, Johnny Sinclair, G. A. (Andy) Morris,  
Rev. Anthony Coleman, Jim King, and Philip M. Goldstein

***Also Present:***

*William F. Bruton, Jr. City Manager*

*Doug Haynie, City Attorney*

*Stephanie Guy, City Clerk*

### CALL TO ORDER:

*Mayor R. Steve Tumlin called the meeting to order at 7:15 p.m.*

### INVOCATION:

*Mayor Tumlin called upon Council member Annette Lewis to give the invocation.*

### PLEDGE OF ALLEGIANCE:

*Mayor Tumlin called upon Boy Scout Troop 200, sponsored by Sandy Plains Baptist Church in Marietta, to lead the pledge of allegiance.*

### PRESENTATIONS:

**20130074**

**Presentation -Visit Marietta Square App**

Theresa Jenkins, Marietta Welcome Center presents their new Visit Marietta Square app.

**Presented**

**20130172      Dr. Oral Moses**

Dr. Oral Moses will sing the National Anthem.

*Dr. Oral Moses was unable to attend the Council meeting.*

**Not Present**

**PROCLAMATIONS:****20130182      Proclamation - Dr. Oral Moses**

Presentation of a Proclamation to Dr. Oral Moses, retired Professor of Voice and Music Literature and Director of the Gospel Choir at Kennesaw State University. Dr. Moses is a bass-baritone who has numerous successes in Oratoria and Opera performing major roles. Dr. Oral Moses has recorded several CDs of Art Songs and Spirituals by African-American composers.

*Dr. Oral Moses was unable to attend the Council meeting.*

**Not Present**

**ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:**

*City Manager Bill Bruton mentioned that Police Chief Dan Flynn was unable to attend the Council meeting; however, Deputy Chief Marty Ferrell was sitting in for him. Deputy Chief Ferrell was just recently promoted to that position.*

**SCHEDULED APPEARANCES:****UNSCHEDULED APPEARANCES:**

*Diane Goldsmith, representing Up with People (UWP), spoke regarding the non-profit organization that focused in international relations, education, and entertainment. Ms. Goldsmith mentioned that a group of 120 international students would be in the area March 11-18, with a performance at the end of their stay.*

*Don Goodner, representing the Young Actors Playhouse, spoke regarding plans to possibly bring performances to the Theatre on the Square located in downtown Marietta. Mr. Goodner mentioned that he wanted to bring attention to the organization in the hope of obtaining investors for their endeavor to bring quality children's plays to the area.*

*As Mr. Goodner was speaking, Council member Goldstein stepped down from the dais. Upon returning, Council member Goldstein disclosed that he owns the properties formerly occupied by and leased to Theatre in the Square.*

**20130191****Rescind Legistar Number 20130069**

Motion to rescind legistar number 20130069, Marietta Welcome Center Appointment.

**A motion was made by Council member Chalfant, seconded by Council member Coleman, to approve the motion Rescind Legistar Number 20130069. The motion failed by the following vote:**

**Vote: 3 - 4 - 0****Motion Failed**

Voting Against: Annette Lewis, Johnny Sinclair, Jim King, and Philip M. Goldstein

**CONSENT AGENDA:**

**Consent agenda items are marked by an asterisk (\*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).**

*Mayor Pro tem Andy Morris called upon Council member Johnny Sinclair, to preside over this portion of the meeting. Council member Sinclair briefly explained the consent agenda process.*

*-under Ordinances: Agenda item 20121333 was added to the consent agenda.*

*-under Judicial/Legislative: Agenda item 20130158 was removed from the consent agenda. Agenda item 20121260 should show Council member Goldstein abstaining. Agenda item 20130115 remains on the consent agenda, with an amendment to the street closures.*

*-under Personnel/Insurance: Agenda items 20130059, 20130064 and 20130196 should show Council member Morris voting against. Agenda item 20130196 was added to the consent agenda.*

*-under Other Business: Agenda items 20130194 and 20130195 were added to the consent agenda.*

*City Attorney Doug Haynie opened the public hearing for those items on the consent agenda requiring a public hearing. Seeing no one wishing to speak the public hearing was closed.*

**A motion was made by Council member King, seconded by Council member Chalfant, to approve the consent agenda as modified. The motion carried by the following vote:**

**Vote: 7 - 0 - 0****Approved**

*with the following exceptions:*

*Council members Lewis and King abstaining on agenda item 20130160.*

*Council member Goldstein abstaining on agenda item 20121260.*

*Council member Morris voting against agenda items 20130059, 20130064 and 20130196.*

**MINUTES:****20130108 Regular Meeting - January 9, 2013**

Review and approval of the January 9, 2013 regular meeting minutes.

*Council member Goldstein noted the amendment made to the minutes on page 18 under unscheduled appearances. Council member Goldstein also made a correction to his disclosure on page 17, which should read, "Council Goldstein discloses that his father owns the above property on Waverly Way."*

*A motion was made by Council member King, Seconded by Council member Sinclair, to approved the January 9, 2013 regular meeting minutes as amended. The motion carried by the following vote:*

*Vote: 6 - 1 - 0 Approved*

*Voting Against: G. A. (Andy) Morris*

*Mayor Tumlin vetoed the motion.  
(The official veto is on file in the City Clerk's Office.)*

*Mayor Tumlin called for any other motion/action regarding this matter.*

*Discussion was held regarding the Marietta Welcome Center Appointment, agenda item 20130069 of the minutes.*

*A substitute motion was made by Council member Chalfant, seconded by Council Sinclair, to approve the January 9, 2013 regular meeting minutes, with the exception of agenda item 20130069, Marietta Welcome Center Appointment. The motion carried by the following vote:*

*Vote: 4 - 3 - 0 Approved*

*Voting Against: Annette Lewis, Jim King and Philip M. Goldstein*

*Further discussion was held.*

**A motion was made by Council member Chalfant, seconded by Council member Morris, to refer the Marietta Welcome Center Appointment back to the Personnel Committee. The motion carried by the following vote:**

**Vote: 5 - 0 - 2 Approved**

**Abstaining: Johnny Sinclair and Philip M. Goldstein**

**\* 20130160 Special Meeting - February 1, 2013**

Review and approval of the February 1, 2013 special meeting minutes.

**This Matter was Approved on the Consent Agenda.**

**Vote: 5 - 0 - 2 Approved**

**Abstaining: Annette Lewis and Jim King**

**MAYOR'S APPOINTMENTS:****CITY COUNCIL APPOINTMENTS:****ORDINANCES:****20121184****Z2013-03 Jonathan C. Pascoe 238 Crescent Circle****Ord 7639**

Z2013-03 [REZONING] JONATHAN C. PASCOE requests rezoning for property located in Land Lot 12310, District 16, Parcel 0290, 2nd Section, Marietta, Cobb County, Georgia and being known as 238 Crescent Circle from OI (Office Institutional) to R-4 (Single Family Residential - 4 units/acre). Ward 3.

*Mayor Tumlin opened the public hearing. City Attorney Doug Haynie explained the rules of order and swore in those wishing to speak.*

*The applicant Jonathan Pascoe requested rezoning for property located at 238 Crescent Circle from OI (Office Institutional) to R-4 (Single Family Residential - 4 units/acre). Mr. Pascoe mentioned that it may be easier to sell the property and use the house as a residence rather than office space.*

*Discussion was held. Mr. Pascoe was asked if he objected to the Planning Commission recommendation to rezone the parcel to OI with an additional use of a single family residence. Mr. Pascoe stated that he would not object, as long as he was able to obtain documentation stating that the house could be used as a residence under the OI zoning. Mr. Pascoe also agreed to remove the chain link fence in the front yard, which would eliminate variance request number 7 (Variance to allow a chain link fence in the front yard.)*

*Mayor Tumlin closed the public hearing.*

*Motion to approve the rezoning from OI (Office Institutional) to OI (Office Institutional) with additional use (single family residential).*

*The use of the property as a single-family residence is hereby approved; however if the main structure is demolished, the zoning reverts back to OI, without the residential single-family residential) use.*

*In addition, the following variances are approved as conditions of zoning for the current developed property only, and should be discontinued upon any future redevelopment of the site, according to Section 706.03, Continuance of a nonconforming building or structure:*

- 1. Variance to reduce the minimum lot size from 20,000 sq. ft. to 6,663 sq. ft. [Sect. 708.23(H)]*
- 2. Variance to reduce the front yard setback from 30 ft. to 20.3 ft. for the primary structure [Sect. 708.23(H)]*
- 3. Variance to reduce the front yard setback from 30 ft. to 6 ft. for an accessory structure [Sect. 708.23(H)]*
- 4. Variance to reduce the north side yard setback from 15 ft. to 1.7 ft. [Sect. 708.23(H)]*

5. Variance to reduce the rear yard setback from 35 ft. to 4.8 ft. [Sect. 708.23(H)]

6. Variance to allow an accessory structure closer to the right-of-way than the principal building. [Sect. 708.04(F)(1)]

**The motion was made by Council member Sinclair, seconded by Council member King, that this matter be Approved as Amended. The motion carried by the following vote:**

**Vote: 6 - 1 - 0**

**Approved as Amended**

Voting Against: Philip M. Goldstein

\* 20121333

**Z2013-08 MESQUITE CREEK DEVELOPMENT, INC. (RACETRAC PETROLEUM, INC.) 2400 & 2466 Delk Road**

[Ord 7640](#)

Z2013-08 [REZONING] MESQUITE CREEK DEVELOPMENT, INC. (RACETRAC PETROLEUM, INC.) requests rezoning for property located in Land Lot 07990, District 17, Parcels 0380 & 0050, 2nd Section, Marietta, Cobb County, Georgia and being known as 2400 & 2466 Delk Road from OI (Office Institutional) and CRC (Community Retail Commercial) to CRC (Community Retail Commercial). Ward 1.

*Public Hearing held during the consent agenda.*

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

20121326

**Z2013-04 City of Marietta - Canton Road Commercial Island Annexation**

[Ord 7642](#)

Z2013-04 [REZONING - ISLAND ANNEXATION] CITY OF MARIETTA requests rezoning from O&I/NS (Office and Institutional/Neighborhood Shopping - County) to CRC (Community Retail Commercial - City) for property located in Land Lot 08740, District 16, Parcel 0260 (532 Dickson Rd); from GC (General Commercial - County) to LI (Light Industrial - City) for property located in Land Lot 08750, District 16, Parcels 0020 (751 Sawyer Rd), 0030 (748 Sawyer Rd), and 0040 (1436 Canton Dr); from GC (General Commercial - County) to CRC (Community Retail Commercial - City) for property located in Land Lot 08740, District 16, Parcels 0010 (1447 Canton Rd), 0030 (1479 Owenby Dr), and 0500 (1441 Canton Rd); from GC (General Commercial - County) to HI (Heavy Industrial - City) for property located in Land Lot 08750, District 16, Parcel 0120 (1398 Owenby Dr); from LI (Light Industrial - County) to LI (Light Industrial - City) for property located in Land Lot 08530, District 16, Parcel 0020 (1556 W Oak Dr) and Land Lot 08740, District 16, Parcels 0350 (525 Dickson Rd), 0130 (515 Dickson Rd), 0120 (515 Dickson Rd) and 0110 (521 Dickson Rd); from HI (Heavy Industrial - County) to LI (Light Industrial - City) for property located in Land Lot 08040, District 16, Parcel 0170 (1654 W Oak Dr); Land Lot 08540,

District 16, Parcel 0410 (a parcel on W Oak Dr); Land Lot 08750, District 16, Parcels 0060 (705 Sawyer Rd), 0590 (1421 Simms Dr), 0660 (725 Sawyer Rd), 0050 (1451 Canton Rd), 0630 (1401 Simms Dr), 0670 (731 Sawyer Rd), 0640 (a parcel on Sawyer Rd), 0680 (a parcel on Sawyer Rd), and 0710 (a parcel on Sawyer Rd); from HI (Heavy Industrial - County) to HI (Heavy Industrial - City) for property located in Land Lot 08750, District 16, Parcel 0120 (1398 Owenby Dr) and Land Lot 09260, District 16, Parcel 0360 (1343 Owenby Dr). Wards 5 & 6.

*City Attorney Doug Haynie opened the public hearing and swore in those wishing to speak.*

*Development Services Director Brian Binzer presented information regarding the commercial island annexation. Mr. Binzer mentioned that the intent of this annexation and the upcoming residential island annexation was to either eliminate or reduce the overall size of unincorporated islands within the city limits.*

*Mrs. Melody Hipps, owner of property located at 1447 Canton Road, expressed concern regarding the annexation and how it would affect her property with regard to zoning category, use of the property and property taxes. Staff was able to satisfactorily address concerns raised by Mrs. Hipps.*

*The public hearing was closed.*

*Motion to approve the rezoning request Z2013-04 Canton Road Commercial Island Annexation as presented.*

**The motion was made by Council member King, seconded by Council member Goldstein, that this matter be Approved. The motion carried by the following vote:**

**Vote: 7 - 0 - 0**

**Approved**

**20121325**

**A2013-01 City of Marietta - Canton Road Commercial Island Annexation**

**[Ord 7641](#)**

A2013-01 CITY OF MARIETTA requests annexation for property located in Land Lot 08040, District 16, Parcel 0170 (1654 W Oak Dr); Land Lot 08530, District 16, Parcel 0020 (1556 W Oak Dr); Land Lot 08540, District 16, Parcel 0410 (a parcel on W Oak Dr); Land Lot 08740, District 16, Parcels 0010 (1447 Canton Rd), 0030 (1479 Owenby Dr), 0110 (521 Dickson Rd), 0120 (515 Dickson Rd), 0130 (515 Dickson Rd), 0260 (532 Dickson Rd), 0350 (525 Dickson Rd), and 0500 (1441 Canton Rd); Land Lot 08750, District 16, Parcels 0020 (751 Sawyer Rd), 0030 (748 Sawyer Rd), 0040 (1436 Canton Dr), 0050 (1451 Canton Rd), 0060 (705 Sawyer Rd), 0120 (1398 Owenby Dr), 0590 (1421 Simms Dr), 0630 (1401 Simms Dr), 0640 (a parcel on Sawyer Rd), 0660 (725 Sawyer Rd), 0670 (731 Sawyer Rd), 0680 (a parcel on Sawyer Rd), and 0710 (a parcel on Sawyer Rd); Land Lot 09260, District 16, Parcel 0360 (1343 Owenby Dr) and all associated right-of-way for each address, all of the 16th District, 2nd Section, Cobb County, Georgia consisting of 33.14 acres. Wards 5 & 6.

*City Attorney Doug Haynie opened the public hearing. Seeing no one wishing to speak the public hearing was closed.*

**A motion was made by Council member King, seconded by Council member Goldstein, that this matter be Approved. The motion carried by the following vote:**

**Vote: 7 - 0 - 0**

**Approved**

**20130002**

**CA2013-01 Code Amendment - Canton Road Commercial Island Annexation**

**Ord 7643**

CA2013-01 [CODE AMENDMENT - ISLAND ANNEXATION] CITY OF MARIETTA in conjunction with the requested annexation proposes to designate the Future Land Use of property located in Land Lot 08040, District 16, Parcel 0170 (1654 W Oak Dr); Land Lot 08530, District 16, Parcel 0020 (1556 W Oak Dr); Land Lot 08540, District 16, Parcel 0410 (a parcel on W Oak Dr); Land Lot 08740, District 16, Parcels 0010 (1447 Canton Rd), 0030 (1479 Owenby Dr), 0110 (521 Dickson Rd), 0120 (515 Dickson Rd), 0130 (515 Dickson Rd), 0260 (532 Dickson Rd), 0350 (525 Dickson Rd), and 0500 (1441 Canton Rd); Land Lot 08750, District 16, Parcels 0020 (751 Sawyer Rd), 0030 (748 Sawyer Rd), 0040 (1436 Canton Dr), 0050 (1451 Canton Rd), 0060 (705 Sawyer Rd), 0590 (1421 Simms Dr), 0630 (1401 Simms Dr), 0640 (a parcel on Sawyer Rd), 0660 (725 Sawyer Rd), 0670 (731 Sawyer Rd), 0680 (a parcel on Sawyer Rd), and 0710 (a parcel on Sawyer Rd) to IW (Industrial Warehousing). The City of Marietta proposes to designate the Future Land Use of property located in Land Lot 08750, District 16, Parcel 0120 (1398 Owenby Dr) and Land Lot 09260, District 16, Parcel 0360 (1343 Owenby Dr) to IM (Industrial Manufacturing). Wards 5 & 6.

*City Attorney Doug Haynie opened the public hearing. Seeing no one wishing to speak the public hearing was closed.*

**A motion was made by Council member King, seconded by Council member Goldstein, that this matter be Approved. The motion carried by the following vote:**

**Vote: 7 - 0 - 0**

**Approved**

**20121328**

**Z2013-05 City of Marietta - Cobb Parkway South Annexation**

**Ord 7645**

Z2013-05 [REZONING - ISLAND ANNEXATION] CITY OF MARIETTA requests rezoning from GC (General Commercial - County) to CRC (Community Retail Commercial - City) for property located in Land Lot 05810, District 17, Parcels 0060 (991 S. Cobb Pkwy), 0040 (1049 S Cobb Pkwy), 0130 (1011 S Cobb Pkwy), 0170 (1035 Wylie Rd) and Land Lot 06420, District 17, Parcels 0040 (1264 Franklin Rd), 0070 (1291 S Cobb Pkwy), 0080 (1265 S Cobb Pkwy), 0100 (1264 S Cobb Pkwy), and 0140 (a parcel on S Cobb Pkwy); from R-20 (20,000 sq. ft. - County) to CRC (Community Retail Commercial - City) for property located



in Land Lot 06420, District 17, Parcels 0090 (1265 S Cobb Pkwy) and 0150 (1265 S Cobb Pkwy). Ward 7.

*City Attorney Doug Haynie opened the public hearing and swore in those wishing to speak.*

*Mrs. Jane Eisele, owner of property located at 1291 Cobb Parkway, expressed concern regarding the annexation and requested not to be annexed into the City at this time.*

*Discussion was held regarding the approval of the annexation with the exclusion of the property mentioned. Staff expressed concern about the creation of another island if this property were excluded. There was general agreement of Council to move forward with the annexation as presented.*

*The public hearing was closed.*

*Motion to approve the rezoning request Z2013-05 Cobb Parkway South Annexation as presented.*

**The motion was made by Council member Goldstein, seconded by Council member King, that this matter be Approved. The motion carried by the following vote:**

**Vote: 6 - 1 - 0                      Approved**  
Voting Against: Anthony Coleman

**20121327**

**A2013-02 City of Marietta - Cobb Parkway South Annexation**

**[Ord 7644](#)**

A2013-02 CITY OF MARIETTA requests annexation for property located in Land Lot 05810, District 17, Parcels 0060 (991 S. Cobb Pkwy), 0040 (1049 S Cobb Pkwy), 0130 (1011 S Cobb Pkwy), and 0170 (1035 Wylie Rd ); Land Lot 06420, District 17, Parcels 0040 (1264 Franklin Rd), 0070 (1291 S Cobb Pkwy), 0080 (1265 S Cobb Pkwy), 0100 (1265 S Cobb Pkwy), 0090 (1265 S Cobb Pkwy), 0150 (1265 S Cobb Pkwy), 0140 (a parcel on S Cobb Pkwy) and all associated right-of-way for each address, all of the 17th District, 2nd Section, Cobb County, Georgia consisting of 7.08 acres. Ward 7.

*City Attorney Doug Haynie opened the public hearing. Seeing no one wishing to speak the public hearing was closed.*

**A motion was made by Council member Goldstein, seconded by Council member King, that this matter be Approved. The motion carried by the following vote:**

**Vote: 6 - 1 - 0                      Approved**  
Voting Against: Anthony Coleman

**20130003 CA2013-02 Code Amendment - Cobb Parkway South Annexation****Ord 7646**

CA2013-02 [CODE AMENDMENT - ISLAND ANNEXATION] CITY OF MARIETTA in conjunction with the requested annexation proposes to designate the Future Land Use of property located in Land Lot 05810, District 17, Parcels 0060 (991 S. Cobb Pkwy), 0040 (1049 S Cobb Pkwy), 0130 (1011 S Cobb Pkwy), and 0170 (1035 Wylie Rd ); Land Lot 06420, District 17, Parcels 0040 (1264 Franklin Rd), 0070 (1291 S Cobb Pkwy), 0080 (1265 S Cobb Pkwy), 0100 (1265 S Cobb Pkwy), 0090 (1265 S Cobb Pkwy), 0150 (1265 S Cobb Pkwy), 0140 (a parcel on S Cobb Pkwy) to CAC (Community Activity Center). Ward 7.

*City Attorney Doug Haynie opened the public hearing. Seeing no one wishing to speak the public hearing was closed.*

**A motion was made by Council member Goldstein, seconded by Council member King, that this matter be Approved. The motion carried by the following vote:**

**Vote: 6 - 1 - 0                      Approved**

Voting Against: Anthony Coleman

**\* 20121330 Z2013-06 City of Marietta - Powder Springs St Annexation****Ord 7648**

Z2013-06 [REZONING - ISLAND ANNEXATION] CITY OF MARIETTA requests rezoning from O&I (Office and Institutional - County) to OI (Office Institutional - City) for property located in Land Lot 01480, District 17, Parcel 0050 (a parcel on Powder Springs St). Ward 3.

*Public Hearing held during the consent agenda.*

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0                      Approved**

**\* 20121329 A2013-03 City of Marietta - Powder Springs St Annexation****Ord 7647**

A2013-03 CITY OF MARIETTA requests annexation for property located in Land Lot 01480, District 17, Parcel 0050 (a parcel on Powder Springs St), 2nd Section, Cobb County, Georgia consisting of a total of 1.995 acres. Ward 3.

*Public Hearing held during the consent agenda.*

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0                      Approved**

**\* 20130004 CA2013-03 Code Amendment - Powder Springs St Annexation**

**Ord 7649**

CA2013-03 [CODE AMENDMENT - ISLAND ANNEXATION] CITY OF MARIETTA in conjunction with the requested annexation proposes to designate the Future Land Use of property located in Land Lot 01480, District 17, Parcel 0050 (a parcel on Powder Springs Street) to CAC (Community Activity Center).

*Public Hearing held during the consent agenda.*

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 – 0**

**Approved**

\* **20121332**

**Z2013-07 City of Marietta - Residential Annexation****Ord 7651**

Z2013-07 [REZONING - ISLAND ANNEXATION] CITY OF MARIETTA requests rezoning from R-20 (20,000 sq. ft - County) to R-2 (Single Family Residential - 2 units/acre - City) for property located in Land Lot 08540, District 16, Parcels 0390 (1516 W Oak Dr), 0360 (1546 W Oak Dr), 0370 (1536 W Oak Dr), 0380 (1526 W Oak Dr), 0400 (1506 Sawyer Rd); Land Lot 08740, District 16, Parcel 0370 (529 Dickson Rd); Land Lot 08790, District 16, Parcel 0040 (1380 Allgood Rd); and Land Lot 09230, District 16, Parcels 0080 (1244 Allgood Rd), 0190 (1284 Allgood Rd), 0210 (1271 Lincoya Dr). Ward 6.

*Public Hearing held during the consent agenda.*

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 – 0**

**Approved**

\* **20121331**

**A2013-04 City of Marietta - Residential Annexations****Ord 7650**

A2013-04 CITY OF MARIETTA requests annexation for property located in Land Lot 08540, District 16, Parcels 0360 (1546 W Oak Dr), 0370 (1536 W Oak Dr), 0380 (1526 W Oak Dr), 0390 (1516 W Oak Dr), and 0400 (1506 Sawyer Rd); Land Lot 08740, District 16, Parcel 0370 (529 Dickson Rd); Land Lot 08790, District 16, Parcel 0040 (1380 Allgood Rd); Land Lot 09230, District 16, Parcels 0080 (1244 Allgood Rd), 0190 (1284 Allgood Rd), 0210 (1271 Lincoya Dr) and all associated right-of-way for each address, all of the 16th District, 2nd Section, Cobb County, Georgia consisting of 7.7 acres. Ward 6.

*Public Hearing held during the consent agenda.*

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 – 0**

**Approved**

\* **20130005**

**CA2013-04 Code Amendment - Residential Annexation****Ord 7652**

CA2013-04 [CODE AMENDMENT - ISLAND ANNEXATION] CITY OF

MARIETTA in conjunction with the requested annexation proposes to designate the Future Land Use of property located in Land Lot 08540, District 16, Parcels 0360 (1546 W Oak Dr), 0370 (1536 W Oak Dr), 0380 (1526 W Oak Dr), 0390 (1516 W Oak Dr), and 0400 (1506 Sawyer Rd); Land Lot 0874, District 16, Parcel 0370 (529 Dickson Rd) to IW (Industrial Warehousing). The City of Marietta proposes to designate the Future Land Use of property located in Land Lot 09230, District 16, Parcels 0080 (1244 Allgood Rd), 0190 (1284 Allgood Rd), 0210 (1271 Lincoya Dr) to MDR (Medium Density Residential). The City of Marietta proposes to designate the Future Land Use of property located in Land Lot 08790, District 16, Parcel 0040 (1380 Allgood Rd) to LDR (Low Density Residential). Ward 6.

*Public Hearing held during the consent agenda.*

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

*Mayor Tumlin disclosed that Smith, Tumlin and McCurley and Patrick, PC performed legal services in real estate for the Marietta Housing Authority (MHA) including the current land purchase contract with Traton. This presents a conflict while still owned by the MHA. Mayor Tumlin left the dais during the discussion of agenda item 20130123.*

*Mayor Pro tem Morris presided over this portion of the meeting.*

**20130123**

**Z2013-09 MARIETTA HOUSING AUTHORITY 274, 298 & 305 Avery St, 427 Cole St, 235 & 244 Cuthbert St, 408 Hunt St, and 265 Montgomery St**

**Ord 7653**

Z2013-09 [REZONING] MARIETTA HOUSING AUTHORITY requests rezoning for property located in Land Lot 11440, District 16, Parcels 1970, 0140, and 0050; and Land Lot 11450, District 16, Parcels 0220, 0080, 1120, 1190, and 2230, 2nd Section, Marietta, Cobb County, Georgia and being known as 274, 298 & 305 Avery Street, 427 Cole Street, 235 & 244 Cuthbert Street, 408 Hunt Street, and 265 Montgomery Street from PRD-MF (Planned Residential Development - Multi Family) and R-4 (Single Family Residential - 4 units/acre) to PRD-MF (Planned Residential Development - Multi Family) for single family detached dwellings. Ward 5.

*City Attorney Doug Haynie opened the public hearing and swore in those wishing to speak.*

*Development Director Brian Binzer presented information regarding the rezoning request. Mr. Binzer mentioned that these properties make up the Montgomery Park development, for which a revised detailed plan is being considered later.*

*Pete Waldrep, Director of Development with Marietta Housing Authority, requested rezoning for property located at 274, 298 & 305 Avery St, 427 Cole St, 235 & 244 Cuthbert St, 408 Hunt St, and 265 Montgomery St from PRD-MF*

*(Planned Residential Development - Multi Family) and R-4 (Single Family Residential - 4 units/acre) to PRD-MF (Planned Residential Development - Multi Family) for single family detached dwellings. Mr. Waldrep mentioned that the Housing Authority did not object to the Planning Commission recommendation to rezone the property to PRD-SF (Planned Residential Development – Single Family) for single family detached dwellings, if council so desires.*

*Mrs. Annie Lay, who resides at 215 Montgomery Street, expressed concern regarding the accessibility of certain streets within the planned development and the removal of the fence along her property line. Staff mentioned that her concerns would be best addressed when the revised detailed plan for Montgomery Park is presented.*

*The public hearing was closed.*

*Motion to approve the rezoning request Z2013-09 Marietta Housing Authority 274, 298 & 305 Avery St, 427 Cole St, 235 & 244 Cuthbert St, 408 Hunt St, and 265 Montgomery St from PRD-MF (Planned Residential Development – Multi Family) and R-4 (Single Family Residential - 4 units/acre) to PRD-SF (Planned Residential Development – Single Family) for single family detached dwellings.*

**The motion was made by Council member Sinclair, seconded by Council member King, that this matter be Approved as Amended. The motion carried by the following vote:**

**Vote: 7 - 0 - 0**

**Approved as Amended**

## **RESOLUTIONS:**

## **CITY ATTORNEY'S REPORT:**

## **CITY MANAGER'S REPORT:**

## **MAYOR'S REPORT:**

## **COMMITTEE REPORTS:**

**1. Economic/Community Development: Grif Chalfant, Chairperson**

**2. Finance/Investment: Annette Lewis, Chairperson**

### **\* 20130100 Historic Preservation Commission Funds**

Motion to approved the reallocation of Historic Preservation funds in the amount of \$5,000 to use for design and construction of signs/markers to identify approved historic districts, with the condition that the wording on the sign and the location of the sign be subject to approval by City Council and that the sign placement not obstruct the view of traffic.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 – 0                      Approved**

**\*        20130126        New Car Tax Collection**

Motion approving an Intergovernmental Agreement between the City and Cobb County regarding the distribution of the new car tax.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 – 0                      Approved**

**3. Judicial/Legislative: Philip M. Goldstein, Chairperson**

**\*        20130073        Intergovernmental Agreement regarding housing of prison inmates**

Motion approving an intergovernmental agreement between the City of Marietta, Georgia and the City of Kennesaw, Georgia for the housing of prison inmates.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 – 0                      Approved**

**\*        20130125        Four-Sided Architecture**

Motion to establish a committee comprised of (4) contractors/developers/architect, Chris Poston, Bryan Musolf, Steve Brock and Roger Caldwell, who build homes within the City limits, staff, and two council members, Philip M. Goldstein and Grif Chalfant, to propose a more definitive definition in user friendly language to define “Four (4) Sided Architecture” for our ordinance.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 – 0                      Approved**

**\*        20130111        Intergovernmental Agreement regarding health issues.**

Motion to approve the Intergovernmental Agreement regarding health issues, as amended by adding a definition regarding the titles solicitor and prosecutor.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 – 0                      Approved**

*Mayor Tumlin disclosed that Smith, Tumlin and McCurley and Patrick, PC performed legal services in real estate for the Marietta Housing Authority (MHA) including the current land purchase contract with Traton. This presents a conflict while still owned by the MHA. Mayor Tumlin then left the dais during the discussion of agenda items 20130098 and 20130158.*

*Mayor Pro tem Morris presided over this portion of the meeting.*

**20130098****Revised Detailed Plan for Montgomery Park**

Motion to approve the revised Detailed Plan for Montgomery Park, located in Land Lots 11440 and 11450, District 16, 2nd Section, Marietta, Cobb County, Georgia, and which includes the attached site plan and tree plan (both by Gaskins Engineering, dated 2-12-13); and architectural building elevations (by Caldwell Cline Architects Designers). Further, in regards to the architectural elevations for the Montgomery Park development, the following are included as conditions of the approved plan:

1. The homes in the Montgomery Park Community shall be traditional in nature and consistent with the homes submitted by Traton Homes and designed by Caldwell Cline Architects Designers, received by the City on January 18, 2013, and approved by the City Council of Marietta at the February 13, 2013 meeting.
2. Design features incorporated into the homes shall be:
  - a. Mixture of materials with material changes taking place on interior corners or where roof massing accommodates change of material
  - b. Window muntins appropriate by the architect on front, side and rear of the homes.
  - c. Shutters as deemed appropriate by the architect on front and side elevations of the homes.
  - d. Mixture of materials to continue, as appropriate onto side and rear elevations.
  - e. There shall be a maximum of 20' horizontally and vertically between architectural fenestration elements (windows, false shutters, change of material, etc., per heated floor space level). This will eliminate large expanses of a single material without a break and add architectural interest to the elevations.

*Mayor Pro tem Morris called forward those wishing to speak regarding this matter.*

*Development Services Director Brian Binzer presented information regarding the revised detailed plan for Montgomery Park. Mr. Binzer stated that the site plan, tree plan and architectural building elevations, which have been signed and dated by the applicant would also be incorporated. Mr. Binzer also mentioned that the design features would include a mixture of materials to continue, as appropriate onto side and rear elevations.*

*Discussion was held regarding the fencing along the applicant's property and stormwater detention facility. The applicant agreed to install a black vinyl-coated chain link fence along all the lots that are adjacent to the exterior property lines of the lot where the stormwater management facility is located.*

*Motion to approve the revised Detailed Plan for Montgomery Park, located in Land Lots 11440 and 11450, District 16, 2nd Section, Marietta, Cobb County, Georgia, and which includes the attached detailed (site) plan and tree plan; and architectural building elevations dated and signed by the applicant and as approved by Council.*

*The developer shall install a black vinyl-coated chain link fence along all the lots that are adjacent to the exterior property lines of the lot where the stormwater management facility is located.*

*Further, in regards to the architectural elevations for the Montgomery Park development, the following are included as conditions of the approved plan:*

- 1. The homes in the Montgomery Park Community shall be traditional in nature and consistent with the homes submitted by Traton Homes and designed by Caldwell Cline Architects Designers, received by the City on January 18, 2013, and which are hereby approved by the City Council of Marietta as part of this motion and per the attached.*
- 2. Design features incorporated into the homes shall be:*
  - a. Mixture of materials with material changes taking place on interior corners or where roof massing accommodates change of material*
  - b. Window muntins appropriate by the architect on front, side and rear of the homes.*
  - c. Shutters as deemed appropriate by the architect on front and side elevations of the homes.*
  - d. Mixture of materials to continue, as appropriate onto side and rear elevations. There shall be a maximum of 20' horizontally and vertically between architectural fenestration elements (windows, false shutters, change of material, etc. per heated floor space level). This will eliminate large expanses of a single material without a break and add architectural interest to the elevations.*

**The motion was made by Council member Chalfant, seconded by Council member Lewis, that this matter be Approved as Amended. The motion carried by the following vote:**

**Vote: 7 - 0 - 0**

**Approved as Amended**

**20130158**

**Harold Street, Cuthbert Street, Hunt Street, and Avery Street Right of Way**

*Motion to release certain rights for portions of former right-of-way of Harold Street, Cuthbert Street, Hunt Street, and Avery Street.*

*Public Works Director Dan Conn presented the Quitclaim Deed between the City and the Marietta Housing Authority for consideration.*



*Discussion was held regarding the Quitclaim Deed and utilities that may be located in the area. Concern was expressed regarding the Intergovernmental Agreement (IGA) between the City and the Housing Authority. It was suggested that if the Quitclaim Deed is approved the IGA be terminated to remove any obligations the City has under it.*

*There was a consensus of Council to postpone this matter until all issues have been addressed.*

*Motion to table this matter until a Special Called Meeting to be held Monday, February 25 at 5:15pm. The item should include the approval of the Quitclaim Deed as amended and the termination of the Intergovernmental Agreement between the City and Marietta Housing Authority.*

**A motion was made by Council member King, seconded by Council member Coleman, to Refer this matter to a Special Called Meeting. The motion carried by the following vote:**

**Vote: 7 - 0 - 0      Referred to the CITY COUNCIL SPECIAL MEETING**

*Mayor Tumlin returned and presided over the remainder of the meeting.*

**\*      20121260      Public Hearing - Kennesaw Avenue Design Guidelines**

Public Hearing regarding the adoption of Design Guidelines for the Kennesaw Avenue Historic District.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 – 1      Approved for Advertisement**  
Abstaining: Philip M. Goldstein

**4. Parks, Recreation and Tourism: Johnny Sinclair, Chairperson**

**\*      20130103      2013 Street Closure Requests**

Motion approving the closure of various streets throughout 2013 to accommodate the Glover Park Concert Series, Taste of Marietta, May-retta Daze, Marietta Police Motorcycle Ride for Special Olympics, Fourth in the Park Parade and Festival, Art in the Park, Marietta StreetFest, Marietta Reads, Harvest Square Arts and Crafts Show, and MUST Ministries Gobble Jog as shown in the attached document items 20130103 A-J.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 – 0      Approved**

\*      **20130117                      Artist's Market Street Closure Request**

Motion to approve the closure of Mill Street from the railroad tracks to Church St./West Park Square on the second and fourth Saturdays of the month from April 2013 through November 2013 during the hours of 7:00 a.m. to 3 p.m. for the purpose of conducting an Artist's Market, with parking spaces closed at 5:30 a.m.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 – 0                      Approved**

\*      **20130115                      Whole Hawg Happenin BBQ**

Motion authorizing the sanctioning of the Whole Hawg Happenin' BBQ and Music Festival and permitting the closure of East Park Square and Cherokee St. from N. Park Square to Hansell Street Saturday, September 28, 2013 from 8:00 AM until 11 PM, Sunday, September 29, 2013; and, the closure of Lawrence St. (Waddell Street to the Square), and N. Park Square on Sunday September 29, 2013 from 2 a.m. to 11 p.m. Further, the applicant will contribute 10% of the net proceeds to each of the following organizations but no less than \$1000 each: The Marietta/Cobb Museum of Art, Earl Smith Strand Theater, Marietta Museum of History, Gone With the Wind Museum, and the Boys and Girls Club of Cobb County. Additionally, the applicant will receive a waiver of the park use fee and supervision fee normally associated with a city event in Glover Park.

*Motion authorizing the sanctioning of the Whole Hawg Happenin' BBQ and Music Festival and permitting the closure of East Park Square and Cherokee St. from N. Park Square to Hansell Street Saturday, September 28, 2013 from 8:00 a.m. until 11 p.m, Sunday, September 29, 2013; and, the closure of Lawrence St. (Waddell Street to the Square), W. Park Square, and Church St from N. Park Square to Hansell St and N. Park Square on Sunday September 29, 2013 from 2 a.m. to 11 p.m. Further, the applicant will contribute 10% of the net proceeds to each of the following organizations but no less than \$1000 each: The Marietta/Cobb Museum of Art, Earl Smith Strand Theater, Marietta Museum of History, Gone With the Wind Museum, and the Boys and Girls Club of Cobb County. Additionally, the applicant will receive a waiver of the park use fee and supervision fee normally associated with a special event.*

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 – 0                      Approved as Amended**

**5. Personnel/Insurance: G. A. (Andy) Morris, Chairperson**

\*      **20130082                      FY 2013 City/BLW Allocation Chart**

[Ord 7637](#)

Approval of an Ordinance amending the FY 2013 City/BLW pay and

classification plans and position allocation chart in order to change the title of PC Specialist to PC Technician in the IT Department.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 – 0                      Approved**

\*      **20130059                      Appointed Officials**

[Ord 7638](#)

Appointed Officials performance and compensation.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 1 – 0                      Approved**

Voting Against: G. A. (Andy) Morris

\*      **20130064                      Employment Agreement - Mayor's Assistant**

Motion to amend the employment agreement for the mayor's assistant to provide a 2% pay increase. The new salary shall be \$19.38 per hour and shall be retroactive to January 1, 2013.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 1 – 0                      Approved**

Voting Against: G. A. (Andy) Morris

\*      **20130196                      Employment Contract - City Manager William F. Bruton, Jr.**

Motion to amend the employment with City Manager William F. Bruton, Jr., to provide a 2% pay increase. The new salary shall be 178,505.60 and shall be retroactive to January 1, 2013.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 1 – 0                      Approved**

Voting Against: G. A. (Andy) Morris

**6. Public Safety Committee: Anthony Coleman, Chairperson**

\*      **20130080                      Standard Operating Procedures Revision**

Motion to approve revisions to the Marietta Police Department's Standard Operating Procedures: A019 Risk Analysis, A030 Code of Conduct, A039 Personnel Selection, A041 Organizational Structure, A050 Secondary Employment, A060 Evidence & Property Maintenance, C060 Volunteer Program,

C070 Police Athletic League, P010 Patrol Operations, P015 Video/Audio Recording, P020 Missing Persons, P041 Pursuit of Motor Vehicles, P048 Vehicle Impounds, S030 Criminal Investigations, T030 Career Tracking, T050 Training.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

**7. Public Works Committee: Jim King, Chairperson**

**\* 20130085 2005 SPLOST Reallocation**

**[Ord 7635](#)**

Approval of an Ordinance amending the Fiscal Year 2013 budget to reallocate the funding for the 2005 SPLOST Project Fund.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

**\* 20130091 Traffic Calming - 13 Intersections listed in the 2011 SPLOST Project list**

Motion to proceed with the intersection traffic calming projects at Kennesaw Avenue at Tower Road, Cherokee Street at Margaret Avenue and North Avenue at Tower Road.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

**\* 20130157 Temporary Construction Easement across from Fire Station 54 property for the construction of a sanitary sewer**

Motion to approve the temporary construction easement as amended to include an expiration date.

*Council member Goldstein disclosed that Bill Haggeman, owner of the property referenced when discussing this item, is a tenant of his.*

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

**APPEARANCES:**

**OTHER BUSINESS:**

**\* 20130176 GWTW Museum Donations**

Approval of an Ordinance amending the Fiscal Year 2013 Gone with the Wind Museum Fund budget to appropriate donations totaling \$3,500 to purchase gift shop items to be sold at the GWTW Museum gift shop.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 – 0**

**Approved**

**20130192**

**Penalty Abatement Request**

Appeal request for the abatement of penalty for failure to pay property tax on time, as related to property located at 1970 Roswell Road.

*City Attorney called forward those wishing to speak regarding this matter.*

*Finance Director Sam Lady presented information regarding the request made by GBC Services, LLC for the abatement of penalty for failure to pay property tax on time, as related to property located at 1970 Roswell Road. Mr. Lady stated that he did not see a factual basis to approve the request.*

*Discussion was held regarding the letter submitted by GBC Services, LLC dated February 3, 2013 requesting abatement of penalty.*

*Representatives from GBC Services, LLC were not present at this time. Discussion was held regarding the notification to GBC Services, LLC regarding the appeal hearing. City Manager Bill Bruton mentioned that correspondence has been exchanged between the City and the owner of the property.*

*Motion to deny the request for the abatement of penalty for failure to pay property tax on time, as related to property located at 1970 Roswell Road.*

**The motion was made by Council member Chalfant, seconded by Council member King, to Deny the request. The motion carried by the following vote:**

**Vote: 6 - 0 - 1**

**Denied**

Abstaining: Philip M. Goldstein

*(Note: Agenda item 20120192, Penalty Abatement Request, was Rescinded at the March 6, 2013 City Council meeting.)*

**\***

**20130194**

**475 Campbell Hill Street**

Motion authorizing acceptance of the donation of the necessary property and easements at 475 Campbell Hill Street from the Board of Lights and Water Works of the City of Marietta for the purpose of constructing the Kennesaw Mountain to Chattahoochee River Trail - North & In-town Section.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 – 0**

**Approved**

\*      **20130195                      359 Campbell Hill Street**

Motion authorizing acquisition of the property at 359 Campbell Hill Street from Thomas J. Spence for the purpose of constructing the Kennesaw Mountain to Chattahoochee River Trail - North & In-town Section in exchange for \$15,300.00 and is inclusive of site improvements.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 – 0                      Approved**

**20130199                      Approval of Contract for Sale**

Motion to approve the Contract for Sale of property from Wilson 4, LLC to the City of Marietta for property at 545/586 Kenneth E. Marcus Way in the amount of \$1.2 million from parks and recreation bond proceeds.

*Discussion was held regarding the motion regarding Contract for Sale of property from Wilson 4, LLC to the City of Marietta for property at 545/586 Kenneth E. Marcus Way in the amount of \$1.2 million. Council member Sinclair mentioned that this item was removed from the consent agenda in order to properly designate the funding source for purchase.*

*A substitute motion was made by Council member Sinclair, seconded by Council member King, to approve the Contract for Sale of property from Wilson 4, LLC to the City of Marietta for property at 545/586 Kenneth E. Marcus Way in the amount of \$1.2 million from the Parks Bond line item allocated for Land Acquisition.*

**The motion was made by Council member Sinclair, seconded by Council member King, that this matter be Approved as Amended. The motion carried by the following vote:**

**Vote: 6 - 1 – 0                      Approved as Amended**  
Voting Against: Anthony Coleman

\*      **20130109                      BLW Actions of the February 11, 2013**

Review and approval of the February 11, 2013 actions and minutes of the Marietta Board of Lights and Water.

Council member Goldstein voting against BLW agenda item 20130159, SyncGlobal Telecom Pole Attachment Agreement.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 – 0                      Approved**

**UNSCHEDULED APPEARANCES:**

**ADJOURNMENT:**

*The meeting was adjourned at 9:11 p.m.*

**Date Approved:** March 6, 2013

\_\_\_\_\_  
**R. Steve Tumlin, Mayor Tumlin**

**Attest:** \_\_\_\_\_  
**Stephanie Guy, City Clerk**